

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

v.

TROPICAL FRUIT, S.E.; AVSHALOM
LUBIN; CESAR OTERO ACEVEDO; and
PEDRO TOLEDO GONZALEZ

Defendants

Civil Action No. 97-1442-DRD

STATEMENT UNDER PENALTY OF PERJURY

, Eugenio E. Toro, married, of legal age, and resident of San Germán, Puerto Rico
under penalty of perjury, declare:

That my name and personal circumstances are as above stated.

That my qualifications as an expert in the field of agriculture are the following: I am
a retired fruit specialist from the University of Puerto Rico, Mayagüez Campus. During my
tenure, worked for 30 years with the Agricultural Extension Service, and 12 years as
Professor of Fruticulture at the University of Puerto Rico Mayagüez Campus.

That since on or about 1997, have been a consultant for Tropical Fruit, S.P. with
regard to the farm it owns and operates which is located at Road No. 335, Km. 7.2. Rural
Zone Boca, Guayanilla, Puerto Rico, and where mangoes, bananas and plantains are
grown ("the Farm").

That pursuant to a Consent Decree entered on October 25, 2001 in the case of

caption, was retained by Tropical Fruit, S.P. to draft the Work Plan therein contemplated for certain areas of the Farm.

I drafted the Work Plan submitted by Tropical Fruit, S.P. to the Environmental Protection Agency ("EPA").

That as consultant for Tropical Fruit, S.P., have advised of and participated in the process of the planting and maintenance of the neem trees which constitute the Outer Vegetative Barrier and the Inner Vegetative Barrier contemplated in the Consent Decree and in the Work Plan ("the Outer Vegetative Barrier and the Inner Vegetative Barrier").

That as consultant for Tropical Fruit, S.P. have inspected from time the time the planting and maintenance of the neem trees which constitute the Outer Vegetative Barrier and the Inner Vegetative Barrier at the Farm.

as consultant for Tropical Fruit, S.P. have personal and direct knowledge of the following, in relation to planting and maintenance of neem trees at the Farm:

- 1 The neem trees which constitute the Outer Vegetative Barrier and Inner Vegetative Barrier have been adequately planted, staked for support, drip irrigated and replaced when as necessary.
- 2 Tropical Fruit, S.P., has employed the best planting and maintenance practices for the neem trees which constitute the Outer Vegetative Barrier and the Inner Vegetative Barrier.
- 3 The neem trees which constitute the Outer Vegetative Barrier and the Inner Vegetative Barrier the Outer Vegetative

Barrier have grown adequately since they were planted

4 Those neem trees which form part of the Outer Vegetative Barrier and the Inner Vegetative Barrier that have died or become damaged, have been replaced For the replacement of neem trees a nursery has been kept at the Farm.

5 The replacement neem trees have also been properly planted and maintained at the Farm

6 The adequate planting and maintenance of the original and replacement neem trees which constitute the the Outer Vegetative Barrier and the Inner Vegetative Barrier at the Farm cannot guarantee that the neem trees will achieve a 30 feet height within a specific time frame.

hereby declare under penalty of perjury that the foregoing is true and correct.

In San Juan, Puerto Rico, this 3 day of May, 2005



Eugenio E. Toro